

AMENDED IN ASSEMBLY MAY 2, 2012

AMENDED IN ASSEMBLY APRIL 11, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2439

**Introduced by Assembly Member Eng
(Coauthor: Assembly Member Skinner)**

February 24, 2012

An act to add Section 19573 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2439, as amended, Eng. Corporation taxes: ~~payments~~: disclosure.

The Personal Income Tax Law and the Corporation Tax Law impose taxes on, or measured by, income. Existing law requires the Franchise Tax Board to make available as a matter of public record each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000, and requires the list to include specified information with respect to each delinquency.

This bill would require the Controller, upon receipt of specified *income tax-payment liability and income apportionment* information that the bill would require to be disclosed by specified corporations, to both publish that ~~payment~~ information and make that information a matter of public record, as provided. *This bill would also require the Franchise Tax Board to provide the Controller with specified information.* This bill would also make findings and declarations regarding ~~this provision~~ *the intent of the Legislature.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Publicly traded corporations are required to disclose their
4 federal and state corporation ~~tax payments~~ *taxes* to the federal
5 Securities and Exchange Commission through the Form 10-K.
6 State ~~tax payments~~ *corporation taxes*, however, are aggregated
7 without regard to state, so the information available at the federal
8 level does not specify *corporation taxes of* particular states.

9 (b) Recent changes in the state's Corporation Tax Law, which
10 provide for the elective use of single-sales factor apportionment,
11 combined with other provisions in this area of tax law, have had
12 little analysis and scrutiny with regard to their impact on taxpayers
13 and California.

14 (c) Therefore, it is the intent of the Legislature, in adding Section
15 19573 to the Revenue and Taxation Code, to supplement federal
16 tax reporting requirements for those corporations filing a Form
17 10-K by adding a single data point that ~~is~~ *would be* reported to the
18 Controller and made publicly available. This single data point
19 ~~discloses~~ *would disclose* the amount of specified tax ~~payments~~
20 ~~made to the state by~~ *liability of* those corporations *that are* already
21 required to disclose their federal and *aggregate* state ~~tax payments~~
22 *corporation taxes*.

23 SEC. 2. Section 19573 is added to the Revenue and Taxation
24 Code, to read:

25 19573. (a) (1) Each corporation that is required to file an
26 annual Form 10-K with the federal Securities and Exchange
27 Commission shall annually disclose ~~the payments made pursuant~~
28 ~~to~~ *its amount of tax liability with respect to the taxes imposed by*
29 *Part 11 (commencing with 23001) for the previous taxable year*
30 *and whether the corporation made an election to apportion its*
31 *income in accordance with Section 25128.5 for the previous taxable*
32 *year to the Controller within three months of the corporation's*
33 *filing deadline for filing its annual Form 10-K with the federal*
34 *Securities and Exchange Commission, in a form and manner as*
35 *prescribed by the Controller.*

36 (2) On or before April 1, 2013, each corporation that is required
37 to file an annual Form 10-K with the federal Securities and
38 Exchange Commission shall disclose ~~the payments made pursuant~~

1 ~~to~~ its amount of tax liability with respect to the taxes imposed by
2 Part 11 (commencing with 23001) for the 2010 and 2011 taxable
3 years *and whether the corporation made an election to apportion*
4 *its income in accordance with Section 25128.5 for the 2011 taxable*
5 *year to the Controller in a form and manner as prescribed by the*
6 *Controller.*

7 (b) (1) Notwithstanding any other provision of law, the
8 Controller shall publish the ~~payment~~ information disclosed pursuant
9 to subdivision (a) ~~on its~~ *the Controller's* Internet Web site and
10 shall maintain a record, available to the public, of that information.

11 (2) If the ~~payment~~ *tax liability* amount is contested or otherwise
12 under dispute, by either the taxpayer subject to the taxes imposed
13 pursuant to Part 11 (commencing with Section 23001) or the
14 Franchise Tax Board, the Controller shall include that information
15 on the Controller's Internet Web site and ~~in its~~ *the Controller's*
16 records. *The Franchise Tax Board shall provide the Controller*
17 *with the information needed to comply with this paragraph.*

18 (3) *The Controller shall publish the information disclosed*
19 *pursuant to subdivision (a) two years after the date the information*
20 *is required to be submitted.*

21 (c) For purposes of this section, "tax liability" means the
22 amount of tax owed after the application of any credits and
23 excluding overpayments, estimated tax payments, withholding, or
24 amounts paid with an extension of time to file tax return.